THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26013 of 2006

Dated:15.12.2006

BETWEEN:

Smt.K.Yashoda.

… Petitioner

and

The Commissioner and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26013 of 2006

ORDER:

The petitioner herein purchased land admeasuring 672 square yards under registered sale deed dated 16.07.1997 along with constructed structure bearing Door No.8-2-293/82/A/415/1 from one K.Janakamma. The petitioner's vendor purchased an extent of 672 square yards from Bala Vishnu Raju, who in turn had purchased the said extent from third respondent. It appears the third respondent herein filed a declaration under Section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act'), after effecting sale, before the second respondent. The same was processed and a draft statement under Section 8(1) of the Act was issued to the third respondent on 05.06.2006. The third respondent did not raise any objections. Therefore, the second respondent by proceedings bearing No.E2/536/CC/2006, dated 03.08.2006, determined an extent of 1450.00 square metres in Plot No.415 as surplus holding by the third respondent, and accordingly, issued the final statement under Section 9 of the Act. Having come to know about this order, the petitioner filed the present Writ Petition.

Learned Counsel for the petitioner and the learned Assistant Government Pleader for Revenue (Urban Land Ceiling) do not dispute that against the order of the second respondent dated 03.08.2006, an

appeal would lie to the first respondent. It is, however, brought to the notice of this Court that in some cases the first respondent did not entertain the appeals filed by the third parties (to the declaration) on the ground that Section 33 of the Act does not enable such third parties to prefer an appeal before the first respondent. If that be so, it is indeed *ex facie* erroneous view. A perusal of Section 33 of the Act and Rule 5(2) of the Urban Land (Ceiling and Regulation) Rules, 1976, would show that a person, who is interested in the property declared to be urban land either because he/she purchased the property before or after coming into force of the Act, is certainly false within the phrase "Any person aggrieved by an order made by the competent authority under this Act…". This view is also supported by a decision of the Supreme Court in **Anurag Virmani v. State of M.P**[1]. Therefore, this Court is of considered opinion that the petitioner has an effective alternative remedy by way of an appeal before the first respondent.

The petitioner is given liberty to file an appeal before the first respondent within a period of one week from the date of receipt of a copy of this order. As the petitioner contends that she has no notice of passing of the order by the second respondent, and that she came to know about the same recently, the Commissioner may entertain the appeal and dispose of the same in accordance with law within a period of three months from the date of filing of the appeal.

The Writ Petition, with the above observations and directions, is accordingly disposed of. No costs.

(V.V.S.RAO, J)

15.12.2006
Note: Issue C.C by 18.12.2006.
B/o.
vs

[1] AIR 1999 SC 3495